



PUBLIC NOTICE

Federal Communications Commission
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Washington, DC 20554

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DA 22-185

Released: March 10, 2022

RURAL DIGITAL OPPORTUNITY FUND SUPPORT FOR 952 WINNING BIDS READY TO BE AUTHORIZED; BID DEFAULTS ANNOUNCED

Listed Auction 904 Long-Form Applicants Must Submit Letters of Credit and Bankruptcy Code Opinion Letters by March 24, 2022

AU Docket No. 20-34
WC Docket No. 19-126
WC Docket No. 10-90

By this Public Notice, the Rural Broadband Auctions Task Force (RBATF), Wireline Competition Bureau (WCB or Bureau), and the Office of Economics and Analytics (OEA) announce they are ready to authorize Rural Digital Opportunity Fund (Auction 904) support for the Auction 904 winning bids identified in Attachment A of this Public Notice.

To be authorized to receive the total 10-year support amounts listed in Attachment A, the long-form applicants identified in that attachment are required to submit acceptable irrevocable stand-by letter(s) of credit and Bankruptcy Code opinion letter(s) from their legal counsel for each state where they have winning bids that are ready to be authorized in accordance with the instructions provided below by the applicable deadline – **prior to 6:00 p.m. ET on March 24, 2022.**¹

On December 7, 2020, we announced that there were 180 winning bidders in the auction and established the deadlines for winning bidders to submit their long-form applications for Rural Digital Opportunity Fund support.² Winning bidders had the opportunity to assign some or all of their winning bids to related entities by December 22, 2020.³ All winning bidders that retained their winning bids and all related entities that were assigned winning bids were required to submit long-form applications by January 29, 2021.⁴ On February 18, 2021, we announced that there were 417 long-form applicants.⁵

¹ See 47 CFR § 54.804(b)(6)(v); *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020; Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 6077, 6177, para. 319 (2020) (*Auction 904 Procedures Public Notice*) (“No later than 10 business days after the release of the public notice, a long-form applicant must obtain one irrevocable standby letter of credit at the value specified in section 54.804(c)(1) from a bank acceptable to the Commission as set forth in section 54.804(c)(2) for each state where the long-form applicant is seeking to be authorized.”).

² *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 13888 (WCB and OEA 2020) (*Auction 904 Closing Public Notice*).

³ *Id.* at 13890-91, paras. 9-14.

⁴ *Id.* at 13892-93, para. 16.

⁵ *417 Long-Form Applicants in the Rural Digital Opportunity Fund Phase I Auction (Auction 904)*, Public Notice, DA 21-170 (WCB and OEA Feb. 18, 2021) (*Auction 904 Long-Form Applicants Public Notice*).

We have reviewed the long-form applications associated with each of the winning bids identified in Attachment A.⁶ These applications were reviewed to determine whether they met all legal, financial, and technical requirements. Based on the representations and certifications in each relevant long-form application, we are prepared to authorize support, subject to submission of the required letter(s) of credit and Bankruptcy Code opinion letter(s), for each of the winning bids identified in Attachment A.⁷

The support amounts listed in Attachment A are subject to change. On July 26, 2021, the RBATF, WCB, and OEA sent a letter to certain long-form applicants that identified census blocks where concerns of existing service or questions of potential waste had been raised, and informed applicants that if they no longer wished to pursue support for a winning bid they should identify those census block groups with a brief explanation of their decision to default on their bid(s).⁸ Support amounts will be adjusted for applicants that defaulted on the identified census blocks. Until these adjusted support amounts are provided, we encourage long-form applicants to obtain letters of credit that cover the full amount of support indicated in Attachment A.

ETC Deadline Waivers. Auction 904 long-form applicants were required to certify that they are eligible telecommunications carriers (ETCs) in all bid areas and to submit appropriate documentation supporting such certification on or before June 7, 2021.⁹ On our own motion, we find good cause to waive this deadline for the applicants that were designated as ETCs by the Commission on June 8, 2021 for the reasons described in the first Auction 904 Ready to Authorize Public Notice.¹⁰

We also find good cause to waive this deadline for certain applicants that obtained state ETC designations.¹¹ Generally, the Commission's rules may be waived for good cause shown.¹² Waiver of the Commission's rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest.¹³ The Commission has found that waiver of this deadline is appropriate when an ETC designation proceeding is not yet complete by the

⁶ Broadlife Communications, Inc. was designated as an eligible telecommunications carrier (ETC) under a different name than its legal name. *Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*; WC Docket Nos. 09-197, 10-90, Order, DA 21-663 (WCB June 8, 2021). The revised legal name is reflected in Attachment A.

⁷ See 47 CFR § 54.804(b)(6)(v). We remind all applicants that an ETC satisfies its obligation to "offer" qualifying services by being legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting universal service fund-related requirements. Accordingly, a broadband provider may satisfy its voice obligations by offering voice service through an affiliate or by offering a managed voice solution (including VoIP) through a third-party vendor, but a provider cannot simply rely on the availability of over-the-top voice options to satisfy this obligation. *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6129, para. 139.

⁸ See "Letters to Long-Form Applicants about Identified Census Blocks," <https://www.fcc.gov/auction/904/releases>.

⁹ 47 CFR § 54.804(b)(5) (requiring winning bidders to submit within 180 days of the announcement of winning bids, a certification of ETC designation in all relevant areas and supporting documentation for that certification); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6176, para. 316; see also *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 727-28, para. 92 (2020) (*Rural Digital Opportunity Fund Order*).

¹⁰ *Rural Digital Opportunity Fund Auction Support for 1,460 Winning Bids Ready to Be Authorized*, AU Docket No. 20-34 et al., DA 21-909, at 2 & n.9 (WCB/OEA July 26, 2021). See also *Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*, WC Docket Nos. 09-197, 10-90, Order, DA 21-663 (WCB June 8, 2021).

¹¹ Requests from other long-form applicants seeking waiver of the ETC deadline remain pending and will be addressed in future releases.

¹² 47 CFR § 1.3.

¹³ See *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), cert. denied, 93 S. Ct. 461 (1972)).

deadline despite the good faith efforts of the long-form applicant.¹⁴ The Commission has explained that it would presume such good faith efforts when the petitioner submitted its petition to the relevant authority within 30 days of the release of the *Auction 904 Closing Public Notice*, i.e., by January 6, 2021.¹⁵ In the Connect America Phase II auction, we granted petitions for waiver for applicants that filed outside the 30-day window after finding that the applicant “acted diligently in attempting to obtain its ETC designation prior to the deadline,” that a delay did not “rise to the level of lack of good faith that should result in[the applicant’s] default,” and that “late-filing of [the] ETC application did not delay the Commission’s long-form application review process or the provision of voice and broadband services to consumers.”¹⁶ In contrast, we have found a lack of good-faith pursuit of ETC designation where (1) an applicant had provided no explanation or defense of its failure to timely submit its ETC application to its respective state commission, (2) an applicant relied on a specific corporate strategy or business consideration to delay its submission, or (3) an applicant filed its ETC designation petition a few days before the ETC deadline and “failed to provide a compelling rationale” for the delay.¹⁷

Centranet, LLC. Centranet sought waiver of the June 7, 2021 ETC documentation deadline for its respective long-form application in Oklahoma.¹⁸ We find good cause to grant its petition for waiver regarding the ETC documentation deadline for this state. Centranet filed its ETC designation application with the Oklahoma Corporation Commission (OCC) on January 6, 2021, ultimately receiving a designation on December 28, 2021.¹⁹ Because Centranet filed its petition with the OCC within 30 days of the public notice announcing that it was a winning bidder,²⁰ we presume that it acted in good faith in pursuing its ETC designation.²¹ That presumption has not been overcome, and thus we find good cause to waive the deadline.

¹⁴ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6002, para. 152 (2016); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, para. 81.

¹⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, para. 81; *Auction 904 Closing Public Notice*, 36 FCC Rcd 13888.

¹⁶ See, e.g., *Connect America Fund Phase II Auction Support for 2,121 Winning Bids Ready to Be Authorized*, AU Docket No. 17-182 et al., Public Notice, 34 FCC Rcd 12384, 12385-86 (WCB/OEA 2019); *Connect America Fund Phase II Auction Support for 611 Winning Bids Ready to be Authorized*, AU Docket No. 17-182 et al., Public Notice, 34 FCC Rcd 4648, 4649 (WCB/OEA 2019).

¹⁷ See *Rural Digital Opportunity Fund Auction (Auction 904)*, *Rural Digital Opportunity Fund*, AU Docket No. 20-34, WC Docket No. 19-126, Order, DA 21-908, at 3-4, paras. 8-16 (WCB/OEA July 26, 2021) (*RDOF ETC Deadline Waiver Order*).

¹⁸ Petition of Centranet, LLC for Waiver of the ETC Designation Deadline, AU Docket No 20-34 at 3 (filed May 27, 2021) (Centranet Petition).

¹⁹ Centranet Petition at 2; See Corporation Commission of the State of Oklahoma, Order, Docket No. 722411 (rel. Dec. 28, 2021).

²⁰ Centranet Petition at 2.

²¹ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6002, para. 152 (2016); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, para. 81.

Pine Belt RDOF Holdings, LLC. As indicated previously, we find good cause to waive the ETC deadline for applicants that were designated by the Commission on June 8, 2021.²² Thus, we dismiss as moot its request for waiver of the ETC deadline.²³

Windstream. Windstream Services, LLC and Windstream Communications, LLC (collectively, Windstream) in Florida and New York sought waiver of the June 7, 2021 ETC documentation deadline for their respective long-form applications.²⁴ Though Windstream did not file its ETC petitions in Florida and New York within the 30-day time frame for the presumption of good faith to apply, we nonetheless find good cause to grant its petitions for waiver regarding the ETC documentation deadline for these states.

We conclude that Windstream demonstrated special circumstances that warrant deviation from the Commission's June 7, 2021 deadline. Windstream explains that, following release of the *Auction 904 Closing Public Notice*, it conducted a "data-intensive task of analyzing which specific Census blocks are served by the ILEC entities in the Windstream corporate family—which already had ETC designations—and which are served by Windstream Communications or which were hybrid blocks requiring service from multiple entities" in order to determine where it needed to file ETC designation applications.²⁵ After it completed this process in late February, Windstream began filing the necessary applications.²⁶ Windstream New York filed its application with the New York Department of Public Service (DPS) on March 12, 2021 and Windstream Florida filed its application with the Florida Public Service Commission (PSC) on April 13, 2021.²⁷ In both cases, the Florida PSC and the New York DPS found they lacked jurisdiction over Windstream's voice over Internet protocol service.²⁸ After learning that both Commissions lacked jurisdiction, Windstream submitted a new petition for ETC designation consideration with the FCC, receiving a designation on January 12, 2022.²⁹ In this case, Windstream filed its initial ETC petitions well before the ETC designation deadline and diligently engaged with the Florida PSC and New York DPS. Both commissions took more time than Windstream had reasonably anticipated and ultimately disavowed jurisdiction, which constituted circumstances outside its control.

Moreover, based on the totality of the circumstances, we find that waiver of the deadline here would serve the public interest. Windstream has shown consistent efforts to obtain its ETC designations

²² See *Rural Digital Opportunity Fund Auction Support for 1,460 Winning Bids Ready to be Authorized*; WC Docket Nos. 19-126, 10-90, AU Docket No. 20-34, Public Notice, DA 21-909, p. 2 n.9 (WCB/OEA July 26, 2021).

²³ Pine Belt Holdings, LLC, Petition for Waiver, WC Docket Nos. 09-197, 10-90, 19-126, AU Docket No. 20-34 (filed June 19, 2021).

²⁴ Windstream Communications, LLC for Waiver of ETC Designation Deadline, AU Docket No. 20-34 (filed June 1, 2021) (Windstream Petition Florida); Windstream Communications, LLC for Waiver of ETC Designation Deadline, AU Docket No. 20-34 (filed June 1, 2021) (Windstream Petition New York).

²⁵ Windstream Petition at 2.

²⁶ *Id.*

²⁷ Windstream Florida Petition at 3; Windstream New York Petition at 2.

²⁸ On June 3, 2021, the Florida Public Service Commission (PSC) issued a memorandum to Windstream stating that the PSC "lacks jurisdiction to grant Windstream Communications, LLC ETC status in Florida. . . . [and] . . . recommends . . . apply[ing] directly to the FCC for a Florida ETC designation." Letter from the Florida PSC, Office of Industry Development and Market Analysis to the Office of the Commission Clerk at 4 (June 3, 2021) (Windstream Florida PSC Letter); Letter from New York DPS, Deborah LaBelle, Director, Office of Telecommunications to Thomas Neisen, Counsel for Windstream Communications, Inc. at 1 (May 28, 2021) (Windstream New York DPS Letter).

²⁹ Windstream Communications, LLC, Petition for Designation as an Eligible Telecommunications Carrier, WC Docket No. 09-197 (filed June 7, 2021) (Windstream FCC ETC Petition); *Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*, WC Docket Nos. 09-197, 10-90, Order, DA 22-35 (WCB Jan. 12, 2022).

as evidenced by Windstream engaging in data analysis for purposes of determining where it actually needed to file its ETC designation application.³⁰ As noted above, Windstream was actively engaged in obtaining the ETC designations. The circumstances surrounding its petition are not similar to those instances where the Bureau has previously found a lack of good faith.³¹ We find the public interest is served by moving forward with authorizing support for applicants that acted in good faith through the application process and obtained their ETC designations within a reasonable amount of time after the deadline, rather than delaying the provision of voice and broadband service to these areas by defaulting long-form applicants that are otherwise ready to authorize.

Lake Region Technology & Communications and E. Fiber Moab. Lake Region Technology & Communications, LLC (Lake Region) and E Fiber Moab separately sought waiver of the June 7, 2021 ETC documentation deadline for their respective long-form applications in Oklahoma and Utah.³² Though Lake Region and E Fiber Moab did not file their ETC petitions in Oklahoma and Utah within the 30-day time frame for the presumption of good faith to apply, we nonetheless find good cause to grant their petitions for waiver regarding the ETC documentation deadline for these states.

We conclude that Lake Region and E Fiber Moab demonstrated special circumstances that warrant deviation from the Commission's June 7, 2021 deadline. First, the OCC found that Lake Region had engaged in good faith efforts to become an ETC by the applicable deadline.³³ Lake Region explains that it filed its application on February 11, 2021, well before the June 7 deadline, and acted in good faith by fully complying with all OCC requirements associated with its ETC designation.³⁴ On October 21, 2021, the OCC designated it as an ETC.³⁵

E Fiber Moab is a wholly owned subsidiary of Emery Telephone.³⁶ Emery Telephone applied for and was selected by the FCC as a winning bidder, and explains that, following release of the *Auction 904 Closing Public Notice*, "Emery Telephone . . . assigned portions of [its] winning bids . . . to E Fiber Moab and E Fiber San Juan . . ."³⁷ E Fiber Moab and E Fiber San Juan then applied for a Certificate of Public Convenience and Necessity (CPCN) "to provide rate of return regulated service as a carrier of last resort with the Utah Public Service Commission (PSC) . . ."³⁸ The Utah PSC subsequently denied their applications on December 16, 2020, leading Emery Telephone to request permission from the FCC to reassign the winning bids to another wholly owned subsidiary, Emery Telecommunications & Video, Inc (ET&V).³⁹ Emery was allowed to reassign its bids to ET&V, and ET&V petitioned the Utah PSC for

³⁰ Windstream Petition at 2.

³¹ See, e.g., *RDOF ETC Deadline Waiver Denial Order*, at 3-4, paras. 8-16.

³² Petition of Lake Region Technology and Communications, LLC for Waiver of the ETC Designation Deadline, AU Docket No. 20-34, WC Dockets 10-90, 19-126 (filed June 7, 2021) (Lake Region Petition); Petition of E Fiber Moab, LLC for Waiver of the ETC Designation Deadline, AU Docket No. 20-34, WC Dockets 10-90, 19-126 (filed June 2, 2021). (E Fiber Moab Petition).

³³ On June 4, 2021, the OCC issued a "good faith" affidavit to Lake Region stating that its review of applicant's Petition would not be completed prior to deadline despite the good faith efforts of each long-form applicant. Affidavit from the Oklahoma Corporation Commission, Brandy Wreath, Director of the Public Utility Division, Oklahoma Corporation Commission, at 1 (June 4, 2021) (OCC Letter).

³⁴ Lake Region Petition at 2-3.

³⁵ See Corporation Commission of the State of Oklahoma, Order, Docket No. 7214867 (rel. Oct. 22, 2021).

³⁶ E Fiber Moab Petition at 1.

³⁷ *Id.* at 2.

³⁸ *Id.*

³⁹ *Id.*

ETC designation on February 9, 2021.⁴⁰ Simultaneously, E Fiber Moab and E Fiber San Juan requested that the Utah PSC reconsider where they needed to file their ETC designation applications.⁴¹ On May 10, 2021, the Utah PSC found that it had made an error and granted their respective CPCN applications.⁴² Following this confirmation, Emery Telephone requested permission to reassign its winning bids back to E Fiber Moab and E Fiber San Juan.⁴³ Considering the unique circumstances, Emery Telephone was allowed to do so, and shortly thereafter E Fiber Moab filed its application for ETC designation with the Utah PSC.⁴⁴ On July 22, 2021, the Utah PUC designated E Fiber Moab as an ETC in the areas where it is eligible to receive RDOF support.⁴⁵

Thus, in both cases, Lake Region and E Fiber Moab filed their ETC applications well before the ETC designation deadline and engaged with the OCC and Utah PSC, responding to their requests for more information, which took more time than Lake Region and E Fiber Moab had reasonably anticipated. Thus the delays constituted circumstances outside their control.

Moreover, based on the totality of the circumstances, we find that waiver of the deadline here would serve the public interest. As discussed above, Lake Region and E Fiber Moab have both shown consistent efforts to obtain their ETC designations. Lake Region filed its application with the OCC one month after the 30-day good faith time frame and E Fiber Moab was engaged with the Utah PSC prior to the end of the good faith time frame.⁴⁶ The circumstances surrounding both of their petitions are not similar to those instances where the Bureau has previously found a lack of good faith.⁴⁷ Both applicants were actively working toward filing their respective ETC petitions and demonstrated consistent engagement with the OCC and Utah PSC once their applications were filed.⁴⁸

We find the public interest is served by moving forward with authorizing support for applicants that acted in good faith through the application process and obtained their ETC designations within a reasonable amount of time after the deadline, rather than delaying the provision of voice and broadband service to these areas by defaulting long-form applicants that are otherwise ready to authorize.

Commission staff is reviewing information that is submitted with long-form applications on a rolling basis. Accordingly, a long-form applicant that is not included in this Public Notice may be included in a future public notice once Commission staff finalizes review of the long-form application.

Defaults. Several winning bidders have notified us that they do not intend to pursue some or all of their winning bids. In Attachment B, we list the relevant winning bids associated with winning bidders or their assignees that have notified us that they do not intend to pursue all or some of their winning bids in a state.⁴⁹ A list of the eligible census blocks covered by these winning bids will be made available on the Auction 904 website under the “Results” tab, <https://www.fcc.gov/auction/904/round-results>.

⁴⁰ E Fiber Moab Petition at 2.

⁴¹ *Id.*

⁴² *Id.* at 3.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ See Utah Public Service Commission, Order, Docket No. 21-2618-01 (rel. July 22, 2021) (Utah PSC Order).

⁴⁶ Lake Region Petition at 2; E Fiber Moab Petition at 2.

⁴⁷ See, e.g., *RDOF ETC Deadline Waiver Denial Order*, at 3-4, paras. 8-16.

⁴⁸ OCC Letter at 1; Utah PUC Order at 6.

⁴⁹ Attachment B contains bid defaults for Gtek Computers & Wireless, L.L.C. (Gtek), which is defaulting on all winning bids, including blocks that were identified in the July 26, 2021 letter to the company (“letter-identified blocks”). See *infra* n.8. Attachment B also includes bid level defaults for Charter, which defaulted on certain letter-

(continued)

Auction 904 support will not be authorized for the winning bids listed in Attachment B. We consider these winning bidders and assignees to be in default for these bids and subject to forfeiture.⁵⁰ We will refer these defaulters to the Enforcement Bureau for further consideration. Because Commission staff are reviewing information that is submitted with long-form applications on a rolling basis, we expect to announce additional defaults in future public notices.

A defaulter will be subject to a base forfeiture per violation of \$3,000.⁵¹ A violation is defined as any form of default with respect to the census block group. In other words, there shall be separate violations for each census block group assigned in a bid.⁵² So that this base forfeiture amount is not disproportionate to the amount of a winning bidder's bid, the Commission has limited the total base forfeiture to 15% of the bidder's total assigned support for the bid for the support term.⁵³ Notwithstanding this limitation, the total base forfeiture will also be subject to adjustment upward or downward based on the criteria set forth in the Commission's forfeiture guidelines.⁵⁴ In addition, any applicant that failed to submit the audited financial statements as required by the June 7, 2021 deadline will be subject to a base forfeiture of \$50,000, which will be subject to adjustment upward or downward as appropriate based on criteria set forth in the Commission's forfeiture guidelines.⁵⁵

Pursuant to section 54.804(b)(6)(v) of the Commission's rules, the long-form applicants identified in Attachment A that may be authorized to receive Rural Digital Opportunity Fund auction support must submit irrevocable stand-by letters of credit, issued in substantially the same form as set forth in the model letter of credit provided in Appendix C of the *Rural Digital Opportunity Fund Order*,⁵⁶ by a bank that is acceptable to the Commission by **6:00 p.m. ET on March 24, 2022**.⁵⁷ **Prior to submitting their letters of credit, we encourage long-form applicants to view and share with their**

identified blocks, as well as census block groups not identified in the July 26, 2021 letter to the company. See *id.* Charter's bid-level defaults of letter-identified blocks were already posted on the Auction 904 website, along with the partial bid defaults in response to the letters. For the reasons articulated in the *Fourth RDOF Authorization Public Notice* regarding defaults on letter-identified census blocks, we find good cause to waive the forfeiture penalties that would be otherwise associated with the default on the specific census blocks that we identified in our letter. *Rural Digital Opportunity Fund Support Authorized for 2,008 Winning Bids*, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, DA 21-1560, at 9 (WCB Dec. 14, 2021) (*Fourth RDOF Authorization Public Notice*). Gtek also seeks waiver of the penalties associated with default on non-letter identified blocks. Petition of Gtek Computers & Wireless, L.L.C., for Waiver of Default Penalties, AU Docket No. 20-34, WC Dockets 10-90, 19-126 (filed Feb. 4, 2022). This Public Notice does not address waiver requests regarding the penalties for defaulting on non-letter identified blocks.

⁵⁰ *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 735-36, paras. 114-17 (2020) (*Rural Digital Opportunity Fund Order*).

⁵¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁵² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁵³ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁵⁴ See 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(10), note to paragraph (b)(10); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁵⁵ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6177, para. 318; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 722, para. 80; 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(10), note to paragraph (b)(10).

⁵⁶ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 773-77, Appx. C.

⁵⁷ The Commission's rules list specific requirements for a bank to be acceptable to the Commission to issue the letter of credit. Those requirements vary for United States banks and non-U.S. banks. See 47 CFR § 54.804(c)(2); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732, para. 107.

issuing banks the letter of credit resources available on USAC's website:
<https://www.usac.org/high-cost/funds/rural-digital-opportunity-fund/>.

A separate letter of credit must be submitted for each state where the long-form applicant has winning bids that are ready to be authorized, in an amount equal to at least the first year of support in the state.⁵⁸ The value of the letter of credit must increase each year until it has been verified that the support recipient has met certain milestones, as described in more detail in section 54.804(c)(1) of the Commission's rules.⁵⁹

In addition, a long-form applicant is required to provide with the letter of credit an opinion letter from outside legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that, in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the long-form applicant's bankruptcy estate, or the bankruptcy estate of any other bidder-related entity requesting issuance of the letter of credit, under section 541 of the Bankruptcy Code.⁶⁰

By future public notice, we will authorize support for specific winning bids for which all requirements, including submission of the letter of credit and opinion letter, have been met.

Details concerning the next steps are set forth below.

Instructions for Submission of Letter of Credit and Opinion Letter

Long-form applicants identified in Attachment A of this Public Notice must submit letters of credit and Bankruptcy Code opinion letters for each state where they have winning bids identified in Attachment A. The minimum amount of the first letter of credit for each state is determined by adding up the first year of support listed in Attachment A for each winning bid in the state. Each letter of credit and opinion letter submitted to the Universal Service Administrative Company (USAC) must reference the relevant study area code as listed in Attachment A.

A long-form applicant should:

- Submit the hard copy of the letter of credit and opinion letter to USAC by **6:00 p.m. ET on March 24, 2022**, at the following address: Universal Service Administrative Company (USAC), High Cost Program, Rural Digital Opportunity Fund LOC, Attn: Stephen Snowman, 700 12th Street, NW, Suite 900, Washington, DC 20005;
- **Submit an electronic copy of its original letter of credit and opinion letter to hcinfo@usac.org and OGC-LOC@usac.org by the deadline to ensure that they are timely filed.** Note: 1) the electronic copies should be scanned versions of the hard copies mailed to USAC, which should be signed and include Annex A, B, & C, as shown in the model letter of credit;⁶¹ 2) electronic copies are used for the purpose of determining the timeliness of submissions, 3) thus, USAC will only review the mailed, hard copies of the letters of credit and opinion letters, not the electronic copies;
- Expect to receive feedback from USAC on letters of credit within approximately 10 days of USAC's receipt of the hard copies;
- Avoid sending additional documents until the applicant has received feedback from USAC. If an applicant notices an error in its letter of credit or bankruptcy opinion letter prior to receiving feedback from USAC, do not send USAC a revised copy of the relevant

⁵⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732-33, paras. 107-08.

⁵⁹ 47 CFR § 54.804(c)(1)(i)-(vii); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 729-31, paras. 98-104.

⁶⁰ 11 U.S.C. § 541; 47 CFR § 54.804(c)(3); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 113.

⁶¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 773-77, Appx. C.

document. Instead, applicants should wait to receive feedback from USAC and then make their corrections to the version of the document they send back to USAC that also incorporates any USAC feedback.

A copy of the letter of credit and opinion letter must also be submitted in the FCC Auction System by the applicable deadline—**prior to 6:00 p.m. ET on March 24, 2022**. An applicant must provide this required information in two attachments. The letter of credit attachment should be uploaded using the “Letter of Credit” attachment type, and the opinion letter attachment should be uploaded using the “Letter of Credit Opinion Letter” attachment type. Each attachment must be uploaded within the applicant’s long-form application to each relevant winning bid identified in Attachment A of this Public Notice. Such attachments will be treated as confidential trade secrets and/or commercial information and withheld from routine public inspection.⁶² As such, a long-form applicant need not submit a separate section 0.459 confidentiality request for this information with its FCC Form 683.⁶³

Any long-form applicant identified in Attachment A that fails to file the required documents⁶⁴ for any of the identified winning bids by the applicable deadline – **prior to 6:00 p.m. ET on March 24, 2022** – will be in default on such bid(s) and subject to forfeiture.⁶⁵

Further Information Contact:

Technical Support

Electronic Filing
Auction Application System

FCC Auctions Technical Support Hotline

(877) 480-3201, option nine; or (202) 414-1250
(202) 414-1255 (TTY)
Hours of service: 8:00 a.m. – 6:00 p.m. ET,
Monday through Friday

Press Information

Office of Media Relations

Anne Veigle, (202) 418-0506

General Universal Service Information

Wireline Competition Bureau, Telecommunications Access Policy Division

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Heidi Lankau
Stephen Wang
(202) 418-7400
Auction904@fcc.gov

Universal Service Administrative Company

Stephen Snowman
(202) 414-2725

⁶² *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13899, para. 28. If a request for public inspection under section 0.461 is made for the long-form applicant’s letter of credit or opinion letter, the long-form applicant will have an opportunity to object to disclosure and justify the continued confidential treatment of the information. 47 CFR §§ 0.459, 0.461.

⁶³ 47 CFR § 0.459.

⁶⁴ 47 CFR § 54.804(b)(6)(v).

⁶⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, paras. 114-17; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, paras. 321-22 (2020).

Auction 904 Information

General Auction Information, Process, and Procedures

**Office of Economics and Analytics,
Auctions Division**

(717) 338-2868

Post-Auction Rules, Policies, and Regulations

Rural Broadband Auctions Task Force

Michael Janson, (202) 418-0627

Kirk Burgee, (202) 418-1599

Audra Hale-Maddox, (202) 418-0794

Jonathan McCormack, (202) 418-1065

**Office of Economics and Analytics,
Auctions Division**

(202) 418-0660

Small Businesses

Additional information for small and disadvantaged businesses

**Office of Communications Business
Opportunities**

(202) 418-0990

<http://www.fcc.gov/ocbo/>

Accessible Formats

Braille, large print, electronic files, or audio format for people with disabilities

Consumer and Governmental Affairs Bureau

(202) 418-0530

fcc504@fcc.gov

FCC Internet Sites

<http://www.fcc.gov>

<https://www.fcc.gov/auction/904>

This Public Notice contains the following Attachments:

Attachment A: Ready to Authorize Long-Form Applicants and Winning Bids

Attachment B: Bids in Default

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